

**UPDATE ON SYSTEM REFORM WORK TO
IMPROVE PROCESSING, SERVING &
ENFORCING PROTECTION ORDERS**

&

**ORDERS TO SURRENDER
FIREARMS**

**TO BETTER PROTECT SURVIVORS AND
THEIR FAMILIES, COMMUNITIES, AND LAW
ENFORCEMENT**

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DV & FIREARMS

- A staggering portion of violence against women is fatal & a key driver of these homicides is access to guns.
- Domestic assaults involving guns are 12 times more likely to cause death than assaults that don't involve firearms, and the presence of a gun in a domestic violence situation increases the risk of homicide for women by 5 times.
- Every year, more than 1,800 people in the United States are killed by their intimate partners. About half of those homicides are committed with firearms, and 85 percent of the victims are women.
- American women are 11 times more likely to be murdered with guns than women in other high-income countries, and an average of 46 American women are shot to death each month by a current or former husband or boyfriend.

DV & FIREARMS

- Research also suggests that abusers with access to guns tend to inflict the most severe abuse on their partners.
- Even when the trigger is never pulled, firearms are often used, through intimidation, to maintain coercive control of partners and children.
- The most dangerous time period for a domestic violence victim is when she decides to leave her partner.
- When a woman leaves a partner, that can “trigger a sharp escalation in violence. Women are 3.6 times more likely to be killed shortly after leaving their partner. Which makes ensuring firearms are removed as soon as the victim/survivor seeks the court’s or law enforcement’s help even more important.

DV & FIREARMS

- The best available research shows that the most important element in preventing fatalities is to remove the firearm from the situation. - *New England Journal of Medicine*
- A Michigan State University study released in November found a 12 percent reduction in intimate-partner homicides when emergency restraining orders included gun restrictions.
- Research indicates lack of a “substitution effect” – abusers do not use alternative weapons to kill when they do not have access to guns.

FEDERAL LAW ADDRESSED SOME OF THE RISKS

To address the heightened risks of firearms and domestic violence, in 1994 and 1996, Congress added persons subject to a final protective order for domestic abuse and persons convicted of misdemeanor domestic violence to those prohibited from having firearms.

- But it did not require firearms already owned to be turned in or provide a mechanism for law enforcement to remove firearms in the abuser's possession or control.
- And it also did not include two elements addressed in state law: abusers subject to temporary (Ex Parte) DV orders, issued prior to a full hearing, reflecting the immediate danger the victim faces; and persons other than married, cohabitating as spouses, or who have a child together.

CHANGES TO STATE LAW CLOSED ADDITIONAL GAPS

- In 2014, the Washington State Legislature *unanimously* passed ESHB 1840 (RCW 9.41) to add Orders to Surrender Weapons (OTSWs) to civil & criminal orders
- And in 2016, the voters adopted I-1491 (RCW 7.94), authorizing Extreme Risk Protection Orders (ERPOs)
- Gaps closed:
 - *OTSWs can be issued with Temporary Protection Orders, which are during that initial high-risk time*
 - *DVPOs include non-married intimate partners (boyfriend)*
 - *Individuals who are at high risk of harming themselves or others, but don't fit under other POs, are covered by ERPOs*
 - *OTSWs include immediate relinquishment of all firearms, not just prohibiting future purchase*

ORDERS TO SURRENDER WEAPONS NOW ISSUED WITH THESE ORDERS

Civil Orders:

- Anti-Harassment Orders
- Stalking Protection Orders
- Sexual Assault Protection Orders
- Domestic Violence Protection Orders
- Vulnerable Adult Protection Orders
- Restraining Orders
- Extreme Risk Protection Orders (new Dec. 2016)
- Petitions for Initial Involuntary Detention of a Family Member (Joel's Law)

Criminal Orders:

- No Contact Orders
- Court-initiated Sexual Assault Protection Orders
- Court-initiated Stalking Protection Orders
- Harassment NCOs
- Conditions of release NCOs

Orders to Surrender Weapons (OTSW's) are mandatory or discretionary on all of these orders except VAPO's.

ORDERS TO SURRENDER WEAPONS

- Prohibits the respondent from obtaining or possessing a firearm or CPL
- Requires the respondent to immediately surrender all firearms or other dangerous weapons and any concealed pistol license
- Requires the respondent to submit “Proof of Surrender” of *all* weapons/firearms and CPL or “Declaration of Non-Surrender” back to the court *within 5 days*
- Surrender is only allowed to either law enforcement, legal counsel or a “court-designated” third party

ERPOs

- A petition for an extreme risk protection order may be filed by a family or household member of the respondent or a law enforcement officer or agency
- Must be filed in the county where the petitioner resides or the county where the respondent resides
- A petition must:
 - (a) Allege that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, and be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;
 - (b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, or control;
 - (c) Identify whether there is a known existing protection order governing the respondent; and
 - (d) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition

LAWS ARE ONLY EFFECTIVE WHEN ENFORCED

- As in other states, laws such as these have proven difficult to implement
- Among the myriad obstacles: fragmented or non-existent data systems; no single entity responsible for oversight and no dedicated funding; a multiplicity of courts, prosecutors, and law enforcement agencies that must all work seamlessly for compliance to be effective; and Protection Order systems that were designed as civil processes
- Advocates and survivors know first-hand that getting these laws adopted is essential, but also know that to reduce the risk of harm as intended, the laws must be matched by equally strong enforcement

Multi-stakeholder, Multi-system Review

- Convened a number of work groups throughout 2016, including courts, prosecutors, law enforcement, advocates, records and data staff and others
- Analyzed obstacles to implementation at each step of the process and worked collaboratively on solutions
- Work groups met every two weeks and reviewed court practices; enforcement of compliance; data and records systems issues; reducing barriers for petitioners; needed forms, protocols, training, policies; inter-jurisdictional issues
- It became clear that OTSWs couldn't be effectively enforced without improving how all orders are processed, served & enforced
- Secured a grant to do further review in 2017 of how all types of Protection Orders and OTSWs were being processed, served and enforced across the region

FINDINGS

- Very few firearms were surrendered by abusers
- Variety of practices by law enforcement agencies across the region, most not asking abusers for the firearms when law enforcement serves the court orders
- Variety of practices across courts
- Law enforcement and courts not keeping data on number of Orders to Surrender Weapons and what results
- Based on a sample hand-count of DVPO's in King County Superior Court in 2016, more than half ignored the order and there was no verification or follow-up for any who filed Declarations of Non-Surrender despite facts in the petition or other indicia to the contrary

FINDINGS

- For those cases where there has been a 911 call, Washington state law does not require removal of firearms at the scene, as some states do - instead it's left to the responding officer's discretion, and policy & training don't emphasize community-caretaking, risk reduction importance of firearms removal
- Similarly, firearms surrender is not routinely addressed by judicial officers, p.r. screeners, probation at first appearance calendars, bail and other hearings as part of reducing risk of harm
 - *Surrender isn't as a matter of course verified before pleas are accepted or bail/release is determined*
 - *Reduction in charges or acceptance of other agreements such as deferrals aren't as a matter of course reviewed to make sure surrender & future firearms prohibition are retained*

FINDINGS

- On the civil side, for those cases where petitioners are seeking Protection Orders, they usually do not have counsel. Because these are civil proceedings, there is also no prosecutor, law enforcement, or court staff to provide relevant information to the Court, or with responsibility to follow-up when there appears to be non-compliance.
- If the petitioner says there are firearms, and the respondent denies it or says there are fewer than the petitioner describes, the judicial officer has no ready means to obtain additional information because there is no registry of firearms ownership in Washington state to verify firearms owned by a respondent. Other database sources can provide some information about ownership, but someone must have the clearance to access those databases and the responsibility for gathering that information for the court.
- If the respondent appears to have been untruthful in his declaration, there is often no mechanism to immediately involve law enforcement or prosecutors to investigate, and if necessary, request a search warrant, writ of execution, or take other immediate enforcement action.
- If the respondent fails to appear, there is often no finding on the record and judicial enforcement.

FINDINGS

- Civil Protection Order calendars are often not creating a record that ensures:
 - Inquiry from the court that the information the respondent is providing at each hearing is complete and accurate, requiring the respondent to respond under oath
 - Proof that all firearms have been surrendered, providing the court the required receipt from law enforcement, and a Proof of Surrender form with all the same information
 - Proof of sale, if asserting the firearms were sold prior to the order, with sale information matching with Proof of Surrender
 - Finding of non-compliance if any firearms sold after the order
 - Requiring a third party to whom the respondent wishes to transfer firearms to appear and provide proof they may possess firearms and will not allow access to the firearms, as the law requires
 - Finding of non-compliance if transferred without court approval

FINDINGS

- Some courts are not holding review hearings to verify all firearms were immediately relinquished as the law requires
- Some courts report as compliance the respondent having filed the required forms – either a Declaration of Non-Surrender or the Proof of Surrender - regardless of whether the person filing the DNS in fact has firearms, or the person filing Proof of Surrender only turned in some, or the firearms were transferred to a third party after the Order was issued
- Some courts allow those who turned in firearms or from whom law enforcement removed firearms to file a DNS rather than the Proof of Surrender form + receipt from LE that is required, so that there can be verification of compliance

FINDINGS

- Orders to Surrender Weapons may be ordered concurrently with more than a dozen different criminal and civil companion protection or restraining orders issued at family law, domestic violence, mental health, anti-harassment, arraignment, Ex Parte, and other hearing calendars
- There is no integrated database across courts and law enforcement agencies to support real-time tracking of orders and firearms surrendered
- Law enforcement agencies and courts maintain data differently or not at all, making it difficult to track key metrics, such as the number of orders issued and served, firearms surrendered, enforcement actions, or other key information

FINDINGS

- Often these orders are still hand-written. When they require clarification or correction to be served, law enforcement has no effective way to communicate quickly and directly with the court, resulting in delay of service, or non-service. Often the orders are just sent back to the court. If an order is not served, it can't be enforced, and the petitioner and family remain at risk.
- Every law enforcement agency interviewed reported significant numbers of orders not served or not timely served due to issues such as incorrect address, illegibility, wrong form, wrong law enforcement agency, no signature.

FINDINGS

- Some law enforcement agencies have not yet adopted protocols for receiving, storing, and returning prohibited weapons, as the law requires.
- Some judges, commissioners and pro tems have not yet received training, bench cards, or technical assistance on the new laws.
- The normal practices of scheduling court hearings weeks out and just scheduling continuances when there are failures to appear are not consistent with reducing risk through immediate surrender. Abusers who know of the survivor's intent to leave should not continue to have access to firearms.
- Consistent data is not being collected that will allow researchers to evaluate and report on the law's implementation and effectiveness in reducing risk of harm to domestic violence survivors and their families.

Findings

- Notification practices to petitioners when surrendered firearms are being returned are inconsistent across law enforcement agencies
- Evidence managers often do not have access to petitioner contact information due to not being able to access non-departmental records (e.g., no access to court's civil electronic court records)
- Petitioners may not know how to register to receive notification
- There is often no support for petitioners and families as to next steps if they are concerned about firearms being returned

Findings

- Lack of data collection, inconsistent or lack of coding, and limited data-sharing across agencies and across jurisdictions makes it very challenging to determine effectiveness, ensure timeliness, track enforcement and improve outcomes

Findings

- Law Enforcement Agencies and the public have limited information about the Extreme Risk Protection Order law
- Agencies were required to have ERPO policies by June 2017 but none had drafted using best practices
- Gaps in court processes + training, forms needed
- Need protocols to integrate and coordinate among DVPO court, MHCs, ITA Courts, and help families and law enforcement understand how to access the system and use ERPOs
- Same issues with service of orders and obtaining firearms immediately as with other types of Protection Orders

Best Practices for Judicial Officers

- At each stage of the process, the court should always inquire whether the respondent/defendant owns or has access to firearms when issues of domestic violence are presented.
- A survivor of violence committed by an intimate partner is likely to have the best knowledge of a partner's access to firearms. But the petitioner may not know of access to all firearms, so the Court should obtain from the respondent/defendant, under oath, information on all firearms to help ensure that all are relinquished.
- The Court should also evaluate any other indicia of firearms possession or access, such as photos, social media, CPL, Fish & Wildlife registration, third party affidavits or testimony, incident reports, criminal history, insurance records, or prior Protection Orders.

Best Practices for Judicial Officers

- Once a court order is served, all weapons must be immediately surrendered - as with any other type of court order, the obligation to comply begins when the order is served
- OTSWs should clearly state “All weapons, including, but not limited to, those listed” (based on the petition or other information) must be removed by law enforcement when the order is served, or if the firearms are not on site, surrendered immediately thereafter to a law enforcement agency
- Make sure all civil and criminal court forms that relate to domestic violence cases have questions regarding the presence and possession of firearms so that the court can always address firearms risk
 - *Petitions for civil Protection Orders*
 - *Ex Parte and final Protection Order forms*
 - *Requests for extension or renewal of orders & continuances*
 - *Requests to vacate or dismiss orders*
 - *Bail or conditions-of-release information and orders*
 - *Arraignment forms*
 - *Dispositions, deferrals, pleas*

Best Practices for Judicial Officers

Be cognizant of risk factors –

- *Prior domestic or non-domestic assault*
- *Threats against children*
- *Prior violence or harm to victim*
- *Threats of harm or to kill*
- *Convictions involving violent acts*
- *Firearms convictions*
- *History of crimes involving alcohol or drug abuse*
- *Violence against animals*

Best Practices for Judicial Officers

Be cognizant of risk factors –

- *History of Previous Protection Orders*
- *Breach of Previous Orders (restraining, protection, no contact, parole, probation, etc.)*
- *Individual Order History*
- *Victim Level of Fear*
- *Is Victim Pregnant?*
- *Possession/Access to Firearm, or CPL*
- *In Custody*
- *Warrant History*
- *FTA History*
- *Other indicia of dangerousness to self or others*

Best Practices for Judicial Officers

According to the Washington Coalition Against Domestic Violence, 54% of perpetrators who committed fatal shootings in Washington in 2013-2014 had previously been prohibited from owning firearms. Following up to ensure the court's order has been fully complied with is important.

- Courts should have a mechanism for law enforcement to alert judicial officers when an order is not served or when all guns are not surrendered
- Courts should have a process to ensure compliance with timely and accurate filing of Declaration of Non-Surrender or Proof of Surrender
- Where there is apparent non-compliance, show cause or non-compliance review hearings should be set, as would be done when evidence of possible non-compliance with conditions of release or probation in a criminal proceeding or non-compliance with other types of court orders
- Courts, prosecutors and petitioners can initiate or move for contempt proceedings [See RCW 7.21.030-040 & 26.50.120 - a petitioner can seek assistance from the City Attorney or County Prosecutor to initiate a contempt proceeding on behalf of the petitioner.]

Best Practices for Judicial Officers

Because of the known risks to DV survivors once a petition is filed and the importance of immediate surrender of all firearms:

- Review hearings should be set for the soonest possible day after service of the Ex Parte OTSW
- Failure to Appear must be entered by the Court as a finding on the record because the respondent is then in violation of a court order
- Continuances should not be routinely granted, given risk
- The Court should not “encourage” a respondent to file a DNS, nor indicate that attending review hearing is optional
- Respondents should be advised, as well as provided a written warning, that criminal charges may be filed if non-compliance with the statute – access, possession, purchase are prohibited

+Try to schedule ERPO petition hearings first on the calendar as well when law enforcement is the petitioner, so they can move quickly to address the risk and so they are not off the street for more time in order to petition

Best Practices for Judicial Officers

- The Court should conduct an initial review of the court file to determine whether the Declaration of Non-Surrender or Proof of Surrender has been filed, and to verify service of the Order to Surrender, and note date of service
- At the review hearing: If compliance is at issue, the Court should advise on 5th Am rights and inquire of respondent; all statements made must be under oath
- Findings and Order on Surrender Review should be entered on the record & an order filed, including Failures to Appear
- If continuing the hearing for good cause, both the Temporary Protection Order and the OTSW (they come as a pair) must be continued through the next hearing date
- If renewing a Protection Order, the OTSW is also renewed, and compliance must be confirmed at the renewal. Non-compliance or Failure to Appear should result in immediate enforcement

Best Practices for Judicial Officers

- If the resp./def. states under oath that he sold the firearms *prior* to the order, the Court should require proof of sale by documentation or third party testimony. Frequently abusers will report having “sold” their firearms to a friend or relative. The court must determine whether this is a bona fide sale, request proof of the transaction & ensure it addresses all firearms.
- If the resp./def. states under oath that he transferred possession of firearms to friends or family members before the order, that may raise questions of “constructive possession.” If a resp./def. can ask for, or physically retrieve, any of the firearms transferred to a third party, such action means he still has access, which would violate the order.
- If the resp./def’s firearms have been seized by law enforcement or given to a relative with approval of the Court, the resp./def. must still file a Proof of Surrender (not a DNS), so there is a clear record detailing what firearms were obtained, in what way and by when.

Best Practices for Judicial Officers

- If a resp./def. wishes to surrender firearms to a third party, the law requires that party be designated by the Court. The Court may instead require surrender to law enforcement.
- If the Court finds that the resp./def. sold or transferred the weapons, that violates the Court's order if it was done after the order was served. The firearms can only be surrendered to law enforcement, counsel, or a third party *that the court has designated*.
- If the Court wishes to allow surrender to a Court-designated third-party, that party must demonstrate to the Court that he or she is not a prohibited possessor and should attest to the Court that he or she understands it would be a violation of the law to allow the resp./def. access to any firearms.

Best Practices for Judicial Officers

- If the Court finds good cause to grant a continuance, the Court should still direct immediate compliance with firearm and CPL surrender, as the law requires, even if the hearing to provide proof will be several days later.
- E.g., “you must turn your firearms and CPL in to _____ police department by 4pm today and file immediate proof to the Court. Until that occurs, I am finding you out of compliance. When we return on _____ day, we will review whether you followed these instructions and whether I can find you in compliance.”

Best Practices for Judicial Officers

- If the respondent refuses to file Declaration of Non-Surrender or Proof of Surrender due to concerns about self-incrimination, the law still requires the respondent to file one or the other form.
- If the Court wishes to provide the respondent additional time to consult with legal counsel, the Court should:
 - *use the criteria in Olympic Pipeline, 104 Wash.App. at 359, [16 P.3d 45](#).*
 - *keep in mind the risk to the petitioner of continued delay*
 - *ensure the PO & OTSW are renewed*
 - *admonish the respondent that they are in violation of the law if they possess or have access to or attempt to purchase any weapon*
- After every hearing, Findings/Order should be entered noting compliance, non-compliance, or continuance of review hearing, noting any actions ordered to be done and by when. Copies of orders should be mailed to both parties.

Best Practices for Judicial Officers

- The CPL and any pistol transfer information in DOL's system do not alone constitute proof of ownership of a pistol, and conversely, the absence of CPL information is not proof of the absence of firearm ownership. However, CPL and transfer information do provide the Court with "indicia" of potential ownership which can then give rise to further inquiry.
- CPLs are good for 5 years.
- CPLs eliminate the 10-day waiting period for records check. If respondents/defendants do not immediately surrender the CPL, that means they are "Brady-exempt" – they can show their CPL to the store, and if they pass the federal check, *then they can leave the store with the firearm*, instead of having to wait for the State background check which would show they are a prohibited possessor. The store sends the buyer's information to the local law enforcement agency which *then* conducts the State background check, but by that point the individual has been able to acquire the firearm.

Best Practices for Judicial Officers

Some other types of violations to consider:

- Unlawful Possession of a Firearm based on the order, as a previously prohibited possessor, or as a condition of release or probation if there is also a pending criminal matter
- Prohibited Possessors Attempt to Buy (9.41.113, .115)
- Felony Offenders Firearms Registration (9.41.330, .333, .335)
- Perjury
- Contempt
- Illegal firearm (sawed-off, I.D. info removed, etc.)
- Third parties who knowingly transfer firearm to a prohibited person (9.41.080)

Best Practices for Judicial Officers

- Courts have additional statutory implicit legal authority – i.e., the Court can issue any other form of relief deemed necessary to provide for the safety and welfare of the petitioner and any children, to achieve cessation of the abuse or harm.
- The judicial officer can also “initiate a proceeding to impose a remedial sanction on its own motion.” RCW 7.21.030(1).
- A contempt motion can also be made by “a person aggrieved by a contempt of court in the proceeding to which the contempt is related.” 7.21.030(1).
- The judicial officer can ask the prosecuting attorney to commence a criminal contempt proceeding. Under this section, the judge is authorized to “appoint a special counsel to prosecute an action to impose a punitive sanction for contempt of court.” RCW 7.21.040(1)(c)
- A party alleging a violation of a DVPO may ask the prosecutor for assistance and the prosecutor “shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred.” RCW 26.50.120

Best Practices for Judicial Officers

- Be cognizant that many orders never get served or have delayed service when electronic orders are not used and when law enforcement doesn't have a quick or easy way to get corrections or clarifications.
- Most common technical issues are:
 - *Unsigned*
 - *Incorrect address*
 - *Sent to wrong law enforcement agency*
 - *Illegible*
 - *Wrong form*

Best Practices for Judicial Officers

- When an abuser petitions for return of firearms because a protection order expires or is dismissed at the request of the petitioner, or because a qualifying misdemeanor domestic violence conviction has been expunged, the court should take all reasonable steps to ensure it does not inadvertently issue an order instructing a police department to return a gun to an individual who is legally prohibited from possessing one.
- The court should perform a search to determine whether there is any other pending case or cause that would impose a state or federal firearm prohibition on the abuser. It is not enough to address only the pending case.
- The abuser may be subject to a protection order issued by another court in the same state, or in another state, protecting a different victim.
- Or the abuser may have previously been convicted of a misdemeanor crime of domestic violence (not expunged) that triggered a lifetime disqualification from possessing a firearm. The disqualifications flow with the individual abuser, not the case.
- Also, by providing notice to the survivor that the abuser has petitioned for a return of firearms, the court may be able to obtain supplementary information from the survivor that will assist in determining whether the abuser is still prohibited. And, notice to survivors will also enable them to take steps, if necessary, to plan for their own and their children's safety.

BEST PRACTICES FOR LAW ENFORCEMENT

- Model Policy - adopt the Model Policy for processing, service and enforcement of protection orders (including ERPOs) & OTSWs
- Risk Assessment – if law enforcement does not have capacity to timely serve and enforce all orders, prioritize by risk, using evidence-based risk assessment tool
- Establish mechanisms for immediate notification to the Court of non-compliance
- Partner with courts on protocols for review hearings and enforcement when non-compliance

What Should a Risk Assessment Tool Include?

- Prior incidents of assault (domestic violence and non-domestic violence)
- Prior incidents of assault or threat against children
- Prior incidents of assault against law enforcement
- Any type of physical violence, stalking or sexual harm toward victim
- Threat to harm or kill victim or others
- Conviction or arrest involving violent acts
- Presence of firearms or other dangerous weapons
- History of alcohol or substance abuse
- Violence against animals
- Behavioral crisis indicative of dangerousness to self and/or others including suicidality
- History of Previous Protection Orders
- Breach of Previous Orders (restraining, protection, no contact, parole, probation, etc.)
- Individual Order History
- Victim Level of Fear
- Is Victim Pregnant?
- Possession/Access to Firearm, or CPL
- In Custody
- Warrant History
- FTA History

BEST PRACTICES FOR LAW ENFORCEMENT

Make sure policy & training for responding to 911 DV calls cover using community-caretaking authority (and thus decreasing not only risk to survivors, family & community when officers instead leave the firearms there, but also decreasing risk to officers who have to later go seize them per court order)

- 1) dispatch first inquires and advises responding officers of presence of firearms;*
- 2) responding officers first separate the parties;*
- 3) then officer inquires of the victim as to alleged abuser's access to firearms, what they are and where they are located;*
- 4) officer documents all known firearms & CPL information in general offense report;*
- 5) then asks if victim would like firearms removed for safe-keeping while the case proceeds;*
- 6) officer ensures proper coding of report so that prosecutors, court, p.r. screeners, probation are aware of access to firearms*
- 7) agency checks records for CPL information to add to request for filing*

BEST PRACTICES FOR LAW ENFORCEMENT

Document on the return of service provided to the court if there was behavior or evidence indicating additional public safety concerns when service occurred, and request a warrant or writ of execution if appropriate so firearms can be quickly removed if they pose a threat to safety

Ensure swift and certain enforcement by providing courts and prosecutors information when an order can't be served; if there was a refusal to comply at the time of service; if there are additional weapons that were not surrendered; if there are indicia of perjury based on the Declaration of Non-Surrender, asserted transfer or sale, incomplete Proof of Surrender, testimony in court, FTA, etc.

Ensure that agency data reports to policy-makers and the public on crime stats, outcomes, etc. include stats on # firearms removed from DV incident scenes, # & type of Protection Orders directed to agency, # served, length of time to serve, reasons for non-service or delay, # firearms ordered surrendered, # firearms surrendered, length of time between service of Order & surrender of all firearms, prosecutions for non-compliance; any incidents involving harm to public or officers due to non-surrender, etc.

Address removal of firearms when judicial officers have required it as part of criminal proceedings, not just on the civil calendar (conditions of release, probation, NCOs, etc.)

BEST PRACTICES FOR LAW ENFORCEMENT

- Make sure policy & training cover all types of court orders noted in the list above (DVPOs, SAPOs, ERPOs, OTSWs, etc.)
- Make sure policy & training for processing, serving, enforcing, storage, return & notification are consistent with research-based best practices to reduce risk
 - 1) ensuring all Orders are served unless respondent can't be located
 - 2) prioritizing processing and service based on risk of harm to survivor, family, community and law enforcement
 - 3) obtaining weapons at the time of service of the Order, to comply with the legal standard of immediacy of surrender and surrender of all weapons to which the respondent/defendant has access or ownership
 - 4) providing a means for voluntary surrender that meets the immediacy standard if all weapons cannot be obtained at the time of service

BEST PRACTICES FOR LAW ENFORCEMENT

- Make sure policy & training includes how to make effective use of ERPOs
 - 1) identifying incidents that suggest need for petitioning for an ERPO
 - 2) how to petition as law enforcement, including use of
 - LEA addendum to the Petition
 - Supplemental LEIS-Firearms
 - Receipt for surrendered weapons
 - Providing testimony
 - 3) assisting families in petitioning
 - 4) understanding the importance of immediacy

BEST PRACTICES FOR LAW ENFORCEMENT

- Lack of mandatory removal also means that firearms surrender needs to be addressed at first appearance calendars and bail hearings
- Personal Recognizance and bail information provided to judicial officers should include firearms access
- Reduction in charges should not result in elimination of the firearms prohibition
- Surrender should be completed before pleas are accepted or release occurs

BEST PRACTICES

- Laws require swift and certain enforcement to be effective
- DV and gun violence are priorities that span jurisdictional, system and agency boundaries
- Need to have point of responsibility, staff and structure so there is dedicated capacity and expertise to do the work the way it should be done
- Create a regional unit or team that provides an inter-jurisdictional, inter-agency and multi-disciplinary approach to firearm surrender, service and enforcement of protection orders
- All law enforcement agencies should adopt the Model Policy for best practices to process, serve, track, enforce orders; store and return firearms to reduce risk
- Courts & law enforcement should provide training & technical assistance
- Effective enforcement also requires updated data systems and adoption of a risk-based approach to reduce risk of harm to survivors, families and law enforcement
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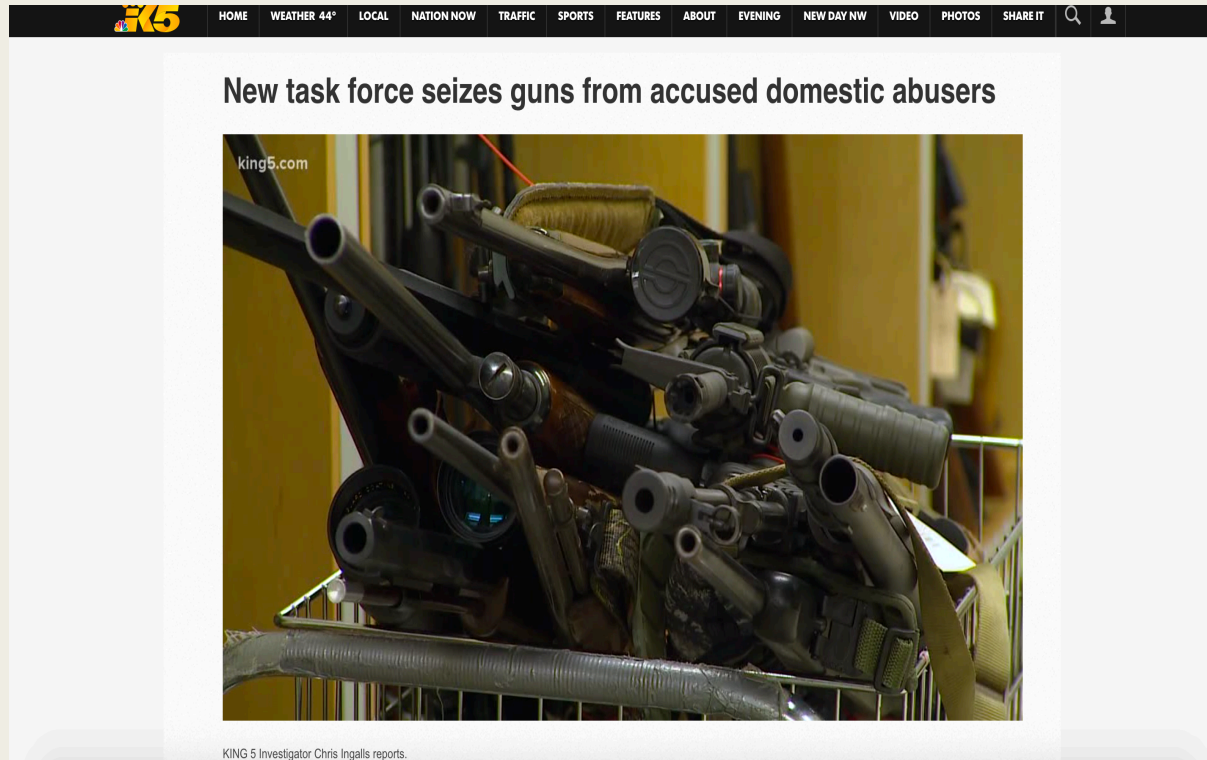
PILOTING THE NEW APPROACH IN KING COUNTY

- Based on our systems review and recommendations, the Seattle City Council funded two positions in the City Attorney's Office as part of the 2017 supplemental budget.
- In March, work group members piloted enforcement at a Superior Court calendar established to review compliance with OTSWs. That morning one respondent attested to the judge and signed a Declaration of Non-Surrender swearing he had no firearms, another said he had sold his firearms, and a third failed to appear for the hearing. Based on different information in the petitions and other information gathered, the team followed up. They obtained 11 firearms from these three individuals. The first two would have otherwise been found in compliance because they filed forms.

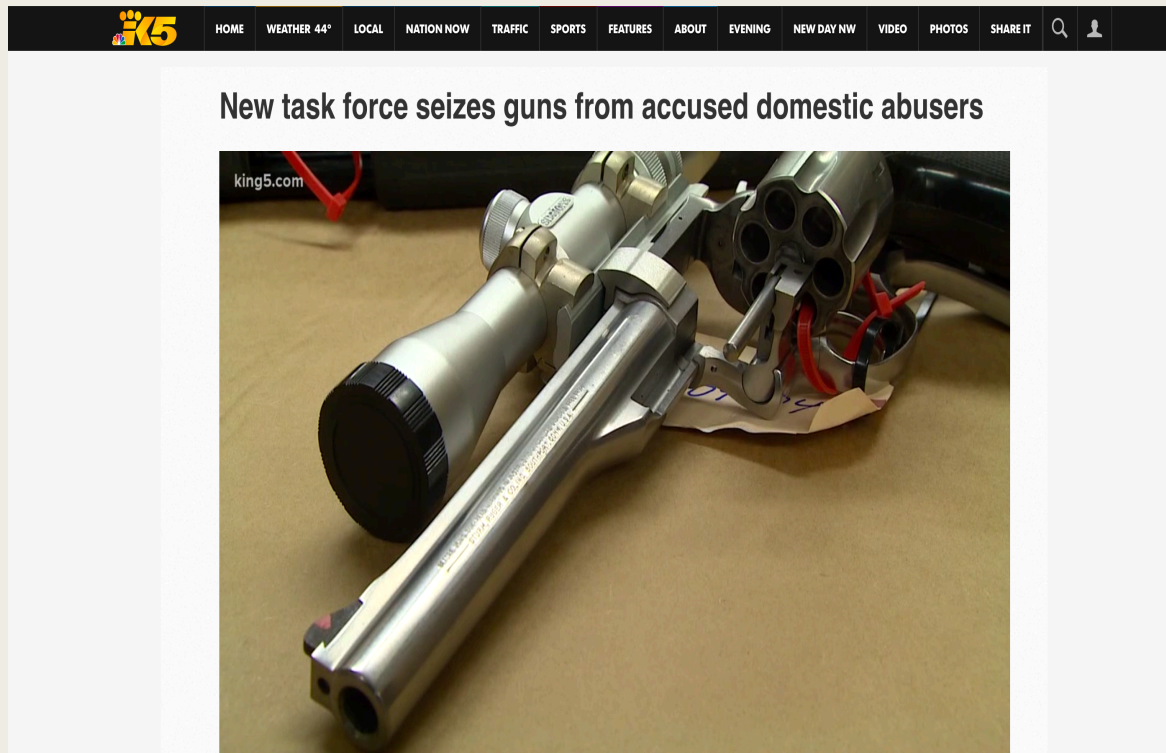
PILOTING THE NEW APPROACH IN KING COUNTY

- Then, starting in July, 2017 this still largely volunteer team, attended that review calendar every week, followed-up on discrepancies in information, secured and served warrants, coordinated with other law enforcement agencies and prosecutors, and initiated enforcement actions.
- By mid-October, this approach resulted in relinquishment of 129 firearms: 95 removed from abusers, and an additional 34 voluntarily surrendered with the team's help. Prosecutions for perjury and unlawful possession were also initiated.

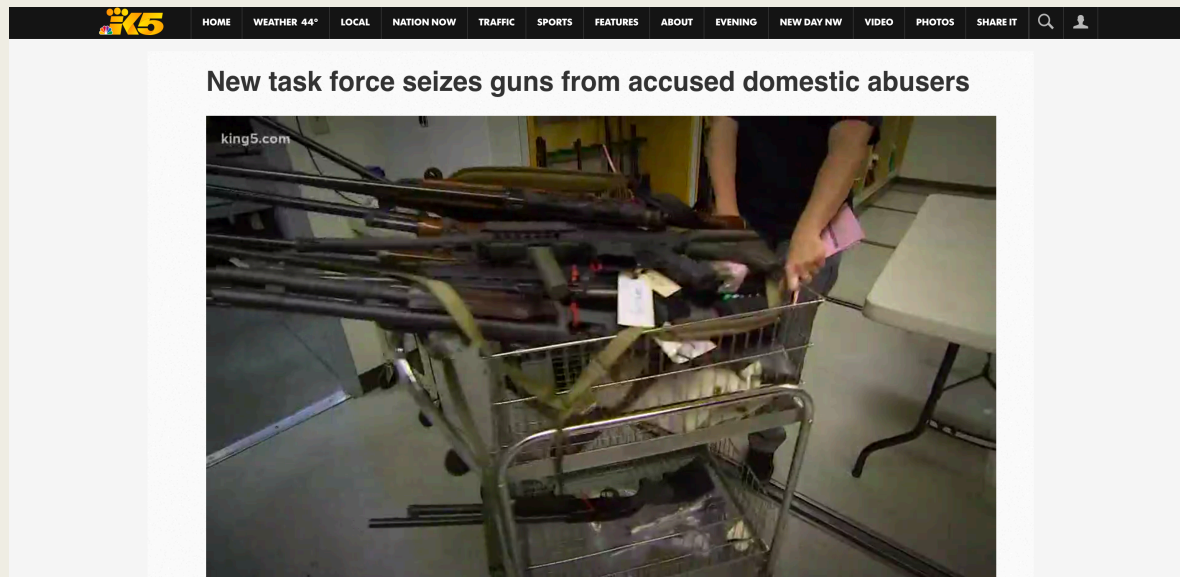
Piloting This New Approach in Seattle-King County



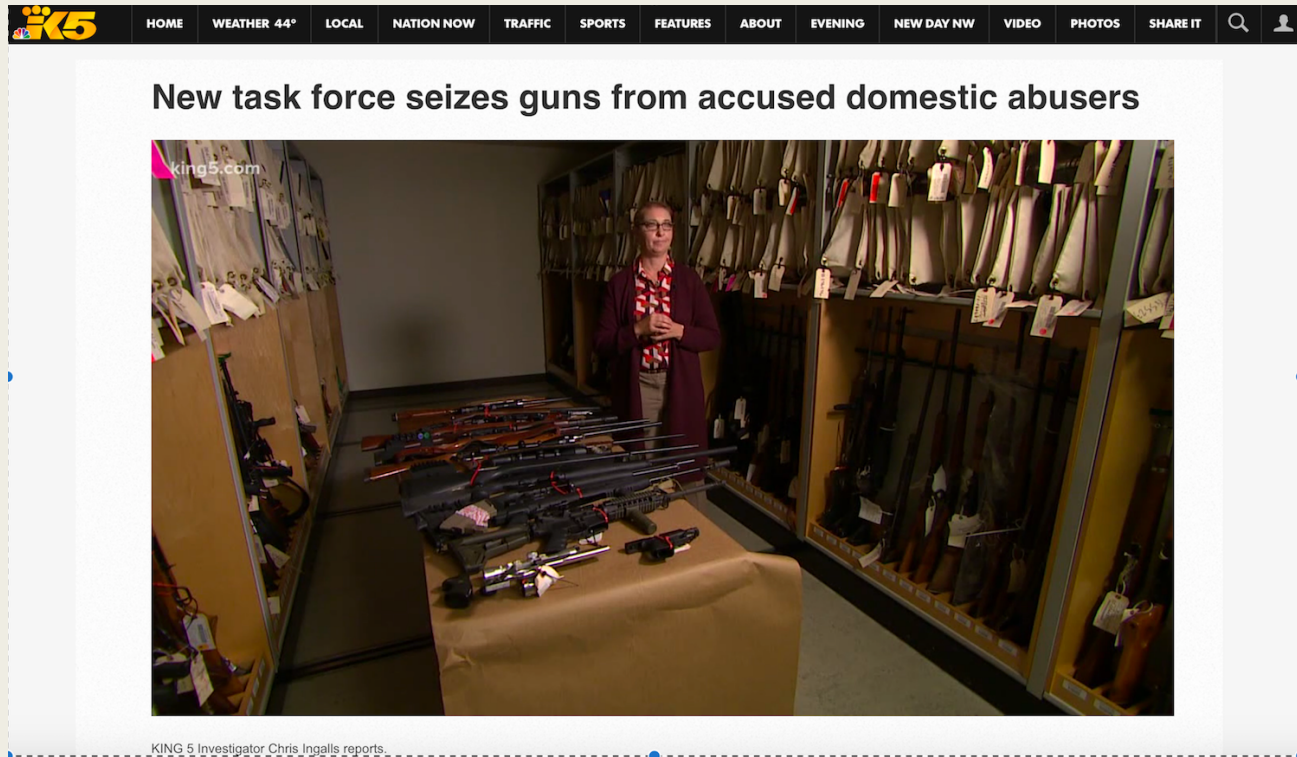
Piloting This New Approach in Seattle-King County



Piloting This New Approach in Seattle-King County



Piloting This New Approach in Seattle-King County



"A year ago, none of these guns would have been recovered. We would never have done the search warrant. We would never have even looked to see if a weapons surrender order had been issued," Sgt. Kim said.

Results

- We shared what we had learned with King County and the City of Seattle and recommended they fund staffing and infrastructure to make this new approach permanent; to create an inter-jurisdictional, multi-disciplinary unit for more comprehensive, swift, and certain removal of weapons as the law intended. As with other regional criminal justice priorities, law enforcement and related systems can work more cohesively and effectively using an inter-jurisdictional approach, particularly when the petitioner and the respondent live in different jurisdictions.
- King County and City of Seattle elected officials agreed, endorsed the recommendations, and dedicated funding in their respective budgets to create a unit to serve and enforce protection orders and firearms relinquishment.

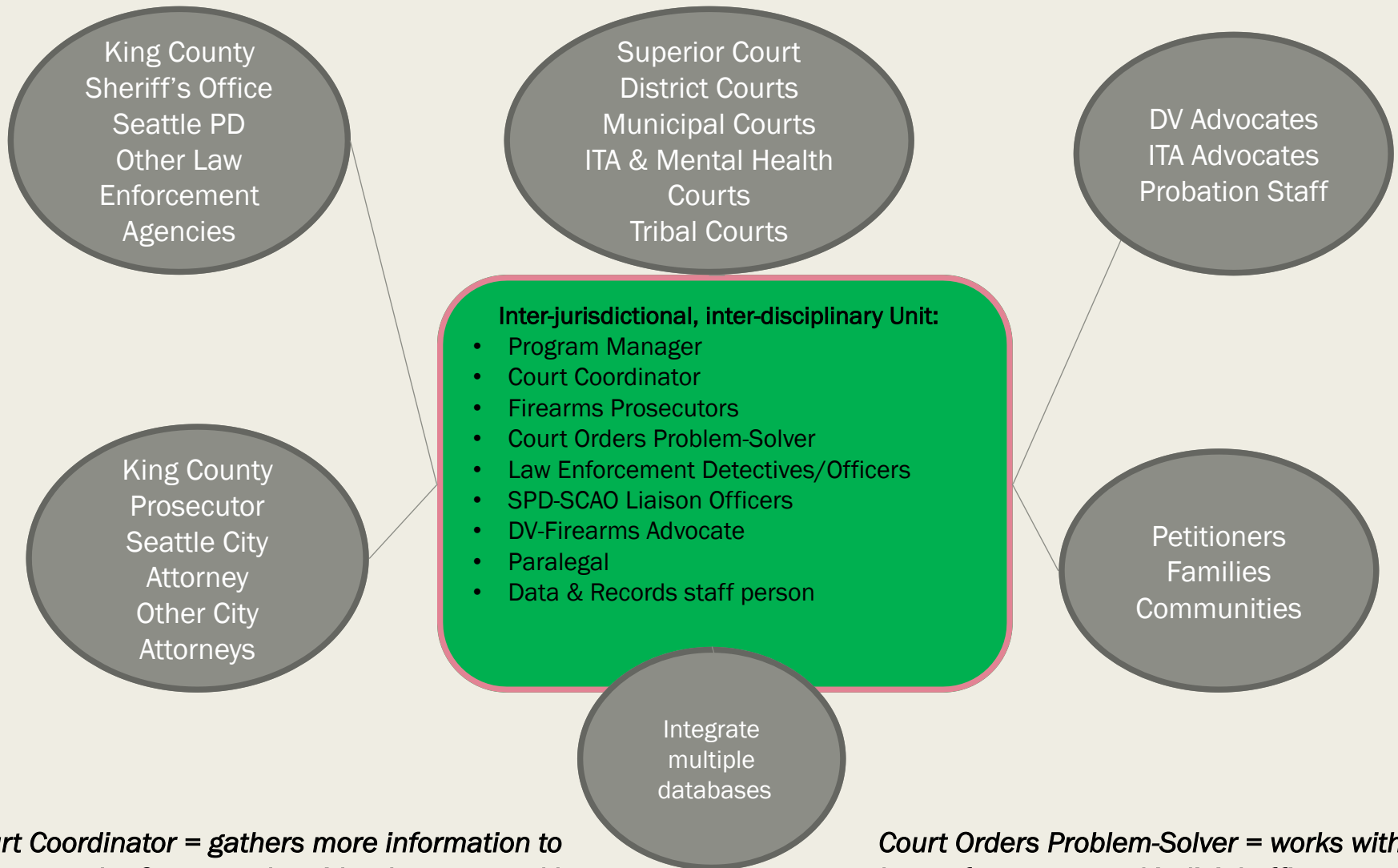
Results

- A multi-year memorandum of understanding to participate in the new unit was entered into by the King County Sheriff, Seattle Police Department, King County Prosecutor and Seattle City Attorney
- All law enforcement agencies in the county agreed to adopt model policy we developed, committing to use best practices to serve and enforce orders
- The WSCJTC agreed to update BLEAA & In-Service Training

Results

- A collaborative, inter-jurisdictional regional unit was established Jan 1, 2018, combining civil and criminal systems for the first time
- The Unit is led by a Program Manager
- Three dedicated firearms prosecutors to coordinate with City Attorneys and law enforcement agencies across jurisdictions
- A “Court Coordinator” (modeled after the staff position used in mental health and drug courts) to provide a more comprehensive record to judicial officers in civil proceedings
- A “Court Orders Problem-Solver” to be the real-time link between law enforcement and courts to quickly resolve problems with orders, to reduce the number of orders not timely or never served
- Dedicated law enforcement personnel to serve and enforce the orders
- A DV-Firearms Advocate to help petitioners and their families
- A paralegal and a data/records staffer
- The Unit is located in the King County Courthouse

Regional DV Firearms Enforcement Unit established Jan 1, 2018

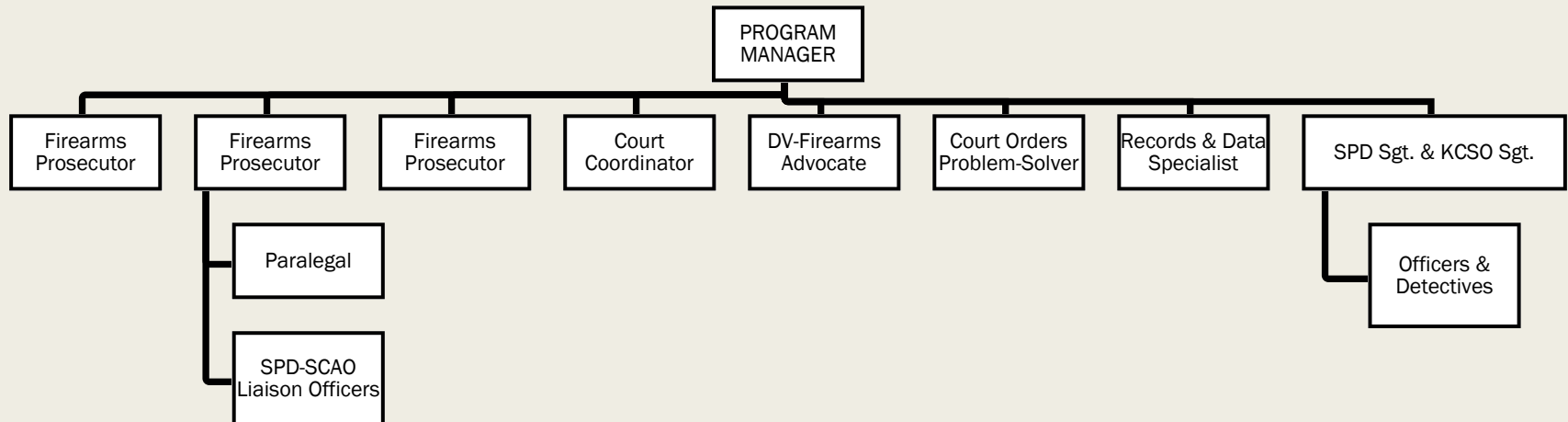


Court Coordinator = gathers more information to present to the Court, works with advocates and law enforcement (modeled after Mental Health Court Monitor)

Court Orders Problem-Solver = works with law enforcement and judicial officers to quickly address technical problems in orders for service

Regional DV Firearms Enforcement Unit

-THE TEAM-



How The G & J Commission Can Help in 2018

- Secure adoption of pattern form improvements to help with best practices (see handout)
- Update bench guide to include a chapter about firearms and Orders to Surrender Weapons*
- Create a bench card for Judicial Officers on how to handle cases with firearms and Orders to Surrender Weapons*
- Support enhanced Judicial Training on firearms and Orders to Surrender Weapons*

*Including Extreme Risk Protection Orders (ERPOs)

Importance of Best Practices for Civil Cases with Firearm Orders

- Protect respondents' due process rights –clarify expectations/obligations and explain how to comply – while also prioritizing harm reduction
- For victims/survivors and children
- For law enforcement
- For communities
- For respondents (suicide prevention)

Pattern Forms

- Forms need:
 - *Clarity*
 - *Specificity*
 - *Enforceability*
 - **especially related to firearms*
- This promotes procedural justice for parties
- Gives clear direction from courts to LE and other system players

Bench Guide

- Provide a foundation for judges, commissioners and pro tems about DV & firearms, firearm laws, and best practices
- Include updates on all of the new firearms laws (ESHB 1840, HB 1501, I-1490 and I-594)
- Help educate on risk and harm reduction, and reinforce that the actual harm reduction comes not just from the order, but from ensuring its effective implementation and enforcement

Bench Card

- Important to have a quick and accessible tip sheet in the form of a bench card
- The laws can be complicated and occur on cases that are ripe for non-compliance (DV Offenders) on an issue that has a lot of pushback (firearms)
- These cases occur on already busy court calendars
- Helps ensure consistent information and practice across judicial officers
- Helps with tools to share information clearly so that the parties understand what is expected of them

Supporting Judicial Training on DV & Firearms

- About laws
- About best practices
- Encourage scenario-based training
 - *We have learned so much from observing these cases up front and on review calendar*
- Prioritize Judge School and annual Judicial Conferences
- Simultaneously working with WSCJTC to enhance officer training on these same issues

CONTACT THE NEW REGIONAL UNIT

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